

F.#2014R00501

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
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UNITED STATES OF AMERICA,

- against -

MARTIN SHKRELI,

Defendant.

TURNOVER ORDER

15 CR 637 (S-1)(KAM)

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WHEREAS, on or about August 4, 2017, a jury found the defendant, Martin Shkreli, guilty of Count Three (securities fraud involving MSMB Capital), Count Six (securities fraud involving MSMB Healthcare) and Count Eight (conspiracy to commit securities fraud involving Retrophin unrestricted securities) (hereinafter, the "Offenses of Conviction");

WHEREAS, the Court found that the defendant was required to forfeit to the United States the amount of Seven Million, Three Hundred Sixty Thousand, Four Hundred and Fifty Dollars (\$7,360,450.00)(the "Forfeiture Money Judgment"), which amount represented the total amount of proceeds obtained by the defendant as a result of the Offenses of Conviction;

WHEREAS, on or about March 5, 2018, the Court entered a Preliminary Order of Forfeiture (the "Preliminary Order") which, among other things, imposed the Forfeiture Money Judgment against the defendant and required the defendant to forfeit his interest in the following assets (the "Substitute Assets"), as well as all proceeds traceable thereto, up to the amount of

the Forfeiture Money Judgment, pursuant to 21 U.S.C. § 853(p):

- (a) \$5 million in cash that was held in an E\*Trade brokerage account (the "E\*Trade Account") ending in the digits "0258" as security for the defendant's bond, pursuant to prior orders of the Court in this action;
- (b) Any interest in Vyera Pharmaceuticals (formerly known as Turing Pharmaceuticals);
- (c) The album "Once Upon A Time in Shaolin" by the Wu Tang Clan (the "Album");
- (d) The album "Tha Carter V" by Lil Wayne; and
- (e) a Picasso painting;<sup>1</sup>

WHEREAS, pursuant to the Preliminary Order, seizure of the Substitute Assets was stayed pending final disposition of any appeal by the defendant, subject to certain conditions;

WHEREAS, on or about September 10, 2018, and following the resolution of third-party claims filed by the New York State Commissioner of Tax & Finance and by the U.S. Department of Treasury, Internal Revenue Service to funds held in the E\*Trade Account, the Court entered a Final Order of Forfeiture;

WHEREAS, following the exhaustion of all appeals by the defendant, the United States seized the following Substitute Assets: (1) the remaining funds held in the E\*Trade Account; (2) a certificate for preference shares A in Turing Pharmaceuticals (the "Phoenixus Shares"), representing Shkreli's interest in Phoenixus AG, which was a successor company to Vyera Pharmaceuticals; (3) the Album; and (4) the Picasso Engraving;

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<sup>1</sup> While referred to as a "Picasso painting" in the Preliminary and Final Orders of Forfeiture (the "Forfeiture Orders"), this Substitute Asset, hereinafter referred to as the "Picasso Engraving," was subsequently determined to be an engraving on paper.

WHEREAS, the Forfeiture Money Judgment was satisfied as of July 27, 2021, and both the Phoenixus Shares and the Picasso Engraving (the “Remaining Substitute Assets”), neither of which was used to satisfy the Forfeiture Money Judgment, remain in the government’s custody;

WHEREAS, in a proceeding pending in the U.S. District Court for the Southern District of New York (the “SDNY Proceeding”), petitioner Thomas Koestler seeks to collect a judgment entered against the defendant and, to that end, moved for the turnover and appointment of a receiver to liquidate defendant Shkreli’s interest in Phoenixus. *Koestler v. Shkreli*, 16-CV-7175 (S.D.N.Y.) (Nathan, J.);

WHEREAS, on or about August 16, 2021, and after the United States advised the the court in the SDNY Proceeding that the Forfeiture Money Judgment had been satisfied and that the United States had no further interest in the Remaining Substitute Assets pursuant to the Forfeiture Orders, the court in the SDNY Proceeding entered an order (the “Receivership Order”) that, among other things: (1) appointed Derek C. Abbott, Esq., of Morris, Nichols, Arsht & Tunnell, LLC, 1201 North Market Street, 16th Floor, Wilmington, Delaware 19899-1347, as the receiver (the “SDNY Court-Appointed Receiver”); and (2) directed the United States to apply to this Court to “release or modify the Forfeiture Order permitting the release of [the Phoenixus Shares] and any other assets of the [defendant] for the purposes directed in [the Receivership Order] (without relieving or seeking relief for [the defendant] from any other obligation under the Forfeiture Order as to the [Phoenixus Shares] or in any other respect as he may have in the Criminal Case) . . . .”

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND

DECREED, upon the consent of the United States and defendant Martin Shkreli, as follows:

1. The United States Marshals Service for the Eastern District of New York is hereby directed to turn over, and make available to the SDNY Court-Appointed Receiver, the Remaining Substitute Assets in the government's custody.

2. Within thirty (30) days of entry of this Order, the SDNY Court-Appointed Receiver, or his authorized representative, shall make the necessary arrangements to retrieve and pick-up the Remaining Substitute Assets from the United States Marshals Service, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, during regular business hours. Current COVID-19 protocols in effect at the United States District Court for the Eastern District of New York federal courthouse must be followed.

3. Upon delivery of the Remaining Substitute Assets to the SDNY Court-Appointed Receiver, or his designee, the United States, and its agencies, agents, officers, employees, past and present, shall be forever released from any claims or causes of action regarding the seizure, possession or delivery of the Remaining Substitute Assets.

4. The Clerk of the Court is directed to send, by inter-office mail, three (3) certified copies of this executed Order of Delivery to Assistant United States Attorney Claire S. Kedeshian, United States Attorney's Office, Eastern District of New York, 271-A Cadman Plaza East, 7th Floor, Brooklyn, New York 11201.

Dated: Brooklyn, New York  
August \_25\_, 2021

SO ORDERED:

/s/ Kiyo A. Matsumoto  
HONORABLE KIYO A. MATSUMOTO  
UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF NEW YORK